

**BOARD OF PATENT APPEALS AND INTERFERENCES  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Howard Lutnick, *et. al.*  
Application No. : 10/699,859 Confirmation No. : 5126  
Filed : October 31, 2003  
For : ELECTRONIC SYSTEMS AND METHODS FOR PROVIDING A  
TRADING INTERFACE WITH ADVANCED FEATURES  
Group Art Unit : 3692  
Examiner : Hatem M. Ali

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

Sir:

This is an appeal from the decision of Examiner Hatem M. Ali, Group Art Unit 3692, in the Final Office Action of May 22, 2008 ("Final Office Action"), rejecting claims **1-30** in the present application. A Reply to Final Action was filed on June 19, 2008 and an Advisory Action was mailed in response on July 8, 2008. A Notice of Appeal was filed on August 22, 2008.

Applicants herewith request a five-month extension of time, which extends the time to file this paper to March 22, 2009.

The Commissioner is hereby authorized to charge the filing fee and the five-month extension of time fee, as well as any additional fees which may be required, or credit any overpayment, to Deposit Account No. 50-3938.

## TABLE OF CONTENTS

I.	<b><u>REAL PARTY IN INTEREST</u></b> .....	4
II.	<b><u>RELATED APPEALS AND INTERFERENCES</u></b> .....	5
III.	<b><u>STATUS OF CLAIMS</u></b> .....	6
IV.	<b><u>STATUS OF AMENDMENTS</u></b> .....	7
V.	<b><u>SUMMARY OF CLAIMED SUBJECT MATTER</u></b> .....	8
VI.	<b><u>GROUND OF REJECTION TO BE REVIEWED ON APPEAL</u></b> .....	12
VII.	<b><u>ARGUMENT</u></b> .....	13
	A. Summary of Argument.....	13
	B. Rejection under 35 U.S. C. § 112, ¶ 1.....	14
	1. Legal Standard .....	15
	2. First Group: Claim 1 – No <i>Prima Facie</i> Showing of Failure to Comply with Written Description Requirement.....	16
	3. Second Group: Claim 12 – No <i>Prima Facie</i> Showing of Failure to Comply with Written Description Requirement.....	17
	C. Rejection Under 35 U.S.C. § 103(a).....	18
	1. Legal Standard.....	18
	2. Third Group: Claims 1 to 11 – No <i>Prima Facie</i> Showing of Obviousness.....	20
	a. <i>Fraser and Silverman do not disclose all of the limitations of             claims 1 to 11</i> .....	20
	b. <i>No support for the motivation to combine Fraser and             Silverman</i> .....	23
	3. Fourth Group: Claims 12 to 18 – No <i>Prima Facie</i> Showing of Obviousness.....	24
	a. <i>No support for the motivation to combine Fraser and             Silverman</i> .....	24
	4. Fifth Group: Claim 19 – No <i>Prima Facie</i> Showing of Obviousness.....	25
	a. <i>No support for the motivation to combine Fraser and             Silverman</i> .....	25

5. Sixth Group: Claim 20 – No <i>Prima Facie</i> Showing of Obviousness.....	26
a. No support for the motivation to combine <u>Fraser</u> and <u>Silverman</u> .....	26
6. Seventh Group: Claims 21, 22, 26 and 27 – No <i>Prima Facie</i> Showing of Obviousness.....	28
a. No support for the motivation to combine <u>Fraser</u> and <u>Silverman</u> .....	28
7. Eighth Group: Claims 23, 24, 28 and 29 – No <i>Prima Facie</i> Showing of Obviousness.....	29
a. No support for the motivation to combine <u>Fraser</u> and <u>Silverman</u> .....	29
8. Ninth Group: Claim 25 – No <i>Prima Facie</i> Showing of Obviousness.....	31
a. No support for the motivation to combine <u>Fraser</u> and <u>Silverman</u> .....	31
9. Tenth Group: Claim 30 – No <i>Prima Facie</i> Showing of Obviousness.....	32
a. No support for the motivation to combine <u>Fraser</u> and <u>Silverman</u> .....	32
D. Conclusion.....	34
IX. <u>CLAIMS APPENDIX</u> .....	35
X. <u>EVIDENCE APPENDIX</u> .....	42
XI. <u>RELATED PROCEEDINGS APPENDIX</u> .....	43

**I. REAL PARTY IN INTEREST**

The real party in interest of the present application is BGC Partners, Inc., a corporation organized and existing under the laws of the State of Delaware, U.S.A., and having a place of business at 499 Park Avenue, New York, NY 10022.

**II. RELATED APPEALS AND INTERFERENCES**

There are no known related appeals or interferences.

### III. STATUS OF CLAIMS

The following claims are pending and stand rejected in the present application:

- Independent claims **1, 12, 19** and **20**.
- Dependent claims **2-11, 13-18** and **21-30**.

The following claims are being appealed:

- Independent claims **1, 12, 19** and **20**.
- Dependent claims **2-11, 13-18** and **21-30**.

**IV. STATUS OF AMENDMENTS**

No amendments have been filed after the Final Office Action of May 22, 2008.

## V. SUMMARY OF CLAIMED SUBJECT MATTER

The presently claimed invention(s) generally relate to computer implemented methods for allowing traders to switch between multiple issues in trading quadrants.

### Independent Claim 1

Independent claim 1 is directed to a system that comprises a display device, a keyboard and a processor. See, e.g., Specification, p. 9, lines 20-22; p. 4, lines 19-27. The keyboard has a plurality of keys, including: a key associated with a first benchmark issue, a key associated with a first non-benchmark issue that is related to the first benchmark issue, a key associated with a second benchmark issue, and a key associated with a second non-benchmark issue that is related to the second benchmark issue. See, e.g., Specification, p. 4, lines 19-27; Fig. 3.

As further recited by the claim, the processor is configured to direct the display device to display simultaneously a first trading quadrant and a second trading quadrant. See, e.g., Specification, p. 16, line 23- p. 17, line 18; Figs. 4, 5. The first trading quadrant and the second trading quadrant comprise trading information that is related, respectively, to the first benchmark issue and the second benchmark issue. See, e.g., Specification, p. 23, lines 21-23; Fig. 4.

In addition, the processor is configured to allow a trader with an opportunity to select the first non-benchmark issue that is related to the first benchmark issue by pressing the key on the keyboard that is mapped to the first non-benchmark issue. See, e.g., Specification, p. 23, line 31- p. 24, line 7. Likewise, the trader also has the opportunity to select the second non-benchmark issue that is related to the second benchmark issue by pressing the key on the keyboard that is mapped to the second non-benchmark issue. Id.

With the selection of the key associated with the first non-benchmark issue, the processor is configured to direct the display device to replace the trading information related to the first

benchmark issue in the first quad with the trading information related to the first non-benchmark issue. See, e.g., Specification, p. 23, line 4-p.24, line 3. Likewise, with the selection of the key associated with the second non-benchmark issue, the processor is configured to direct the display device to replace the trading information related to the second benchmark issue in the second quad with the trading information related to the second non-benchmark issue. *Id.*

#### Independent Claim 12

Independent claim **12** is directed to a method that comprises displaying simultaneously a first trading quadrant and a second trading quadrant. See, e.g., Specification, p. 16, line 23- p. 17, line 18; Figs. 4, 5. The first and second trading quadrants comprise trading information that is related to, respectively, a first benchmark issue and a second benchmark issue. See, .e.g., Specification, p. 23, line 21-30.

As further recited by the claim, the method also comprises receiving a selection of a key on a keyboard that associated with at least one non-benchmark issue that is related at least one of the first and second benchmark issues that is mapped to the at least one non-benchmark issue. See., e.g., Specification, p. 23, line 31- p. 24, line 3.

Furthermore, the method comprises replacing the trading information related to a benchmark issue in a trading quadrant with trading information related to the selected non-benchmark issue. See, .e.g., Specification, p. 23, line 4- p. 24, line 3.

#### Independent Claim 19

Independent claim **19** is directed to a method that comprises displaying a first trading quadrant that includes trading information related to a benchmark issue. See, e.g., Specification,

p. 16, line 23- p. 17, line 18; Figs. 4, 5. The method further receives a selection of a key on a keyboard, in which the key is associated with at least one non-benchmark issue. See, e.g., Specification, p. 18, lines 15-27. The non-benchmark issue is related to the benchmark issue by pressing the key that is mapped to the at least one non-benchmark issue. See, e.g., Specification, p. 23, line 31- p. 24, line 7. The method also displays simultaneously a second trading quadrant for the selected non-benchmark issue. See, e.g., Specification, p. 16, line 23- p. 17, line 18; Figs. 4, 5. The second trading quadrant includes trading information that is related to the selected non-benchmark issue. See, e.g., Specification, p. 16, line 23- p. 17, line 18; Figs. 4, 5.

#### Independent Claim 20

Independent claim **20** is directed to a system that comprises a server storage device, a server processor that is connected to the server storage device, and a plurality of workstations. See, e.g., Specification, p. 8, lines 6-31. Each of the plurality of workstations is operative to communicate with the server. Id. The server storage device stores a server program for controlling the server processor, in which the server processor is operative with the server program to perform a number of steps, including: receiving real-time direct dealing content related to an item and trading information related to the item for use in a trading quadrant. See, e.g., Specification, p. 9, line 20- p. 10, line 30. The direct dealing content comprises at least one of a request a quote, a response with a price, a cancel to a response, an amend a response, or an accept a response. See, e.g., Specification, p. 14, lines 4-16. The trading information comprises limit order data for the item. See, e.g., Specification, p. 15, lines 20-28.

As further recited by the claim, the server processor is further operative with the server program to perform the step of simultaneously displaying the trading quadrant and a ticker. See,

e.g., Specification, p. 25, lines 3-10. The trading quadrant includes the trading information related to the item and the ticker contains the received real-time direct dealing content related to the item. *Id.*

As further recited by the claim, each of the workstations comprises a workstation storage device and a workstation processor that connected to the workstation storage device. See, e.g., Specification, p. 9, lines 20-27. The workstation storage device stores a workstation program for controlling the workstation processor. *Id.* The workstation program is operative to display the trading quadrant and the ticker. See, e.g., Specification, p. 25, lines 3-10. The trading quadrant includes the limit order data for the item and the ticker includes the received real-time direct dealing content. *Id.*

**VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

The grounds for rejection to be reviewed on appeal are whether:

- Independent claims **1** and **12** fail to comply with 35 U.S.C. § 112, ¶ 1.
- Independent claims **1, 12, 19** and **20** and dependent claims **2-11, 13-18**, and **21-30** are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,905,974 (hereinafter “Fraser”) in view of U.S. Patent No. 6,625,583 (hereinafter “Silverman”).

## VII. ARGUMENT

### A. Summary of Argument

Claims **1** and **12** were rejected under 35 U.S.C. § 112, ¶ 1 as failing to comply with the written description requirement. Final Office Action, p. 3. However, support may be found at least at Specification. P. 23, line 4- p. 24, line 7. At least this portion of the Specification provides a clear foundation for the terms that Examiner alleges are not supported by the application. Accordingly, the Examiner fails to establish a *prima facie* case for failure to comply with the written description requirement for claims **1** and **12**.

Claims **1-11** were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fraser in view of Silverman. Final Office Action, p. 5. However, neither Fraser nor Silverman discloses the following feature of independent claim **1**, namely:

replace the trading information related to the first benchmark issue in the first quad with trading information related to the first non-benchmark issue with the a selection of the key associated with the first non-benchmark issue

and

replace the trading information related to the second benchmark issue in the second quad with trading information related to the second non-benchmark issue with a selection of the key associated with the second non-benchmark issue (emphasis added).

None of the three figures cited by the Examiner provide sufficient evidence that the prior art disclosed or suggested either of these features to support a disclosure of claim **1**. Specifically, the mere presence of keys on a keypad that are labeled “ISSUE” does not automatically support,

disclose or suggest the replacing trading information of a benchmark issue with trading information of a non-benchmark issue with the selection of a key associated with the non-benchmark issue. The specification of Fraser also fails to teach or describe this particular feature of claim **1**. Because the Examiner fails to show all the limitations of independent claim **1** are taught or suggested by Fraser and Silverman, he does not establish a *prima facie* case of obviousness with respect to these claims. The rejection of claim **1** (and claims **2-11**, which depend therefrom) is thereby improper.

Furthermore, the Examiner fails to provide any evidence for the motivation to combine Fraser and Silverman. All factual findings of the Patent and Trademark Office must be supported by substantial evidence. Since motivation to combine is a factual finding, it must be supported by some evidence. Because the Examiner does not provide any evidence to support the motivation to combine Fraser and Silverman, he has not established a *prima facie* case of obviousness with respect of claims **1-30**.

**B. REJECTION UNDER 35 U.S.C. § 112, ¶ 1**

Claims **1** and **12** were rejected under 35 U.S.C. § 112, ¶ 1 as failing to comply with the written description requirement. Final Office Action, p. 3. The Examiner rejects claim **1** under 35 U.S.C. § 112, ¶ 1 on the grounds that the recitation, “replace the trading information to the first benchmark issue in the first quad” and “replace the trading information related to the second benchmark issue in the second quad” are new matters not found in the specification. Id. at p. 3.

The Examiner also rejects claim **12** under 35 U.S.C. § 112, ¶ 1, on the grounds that the recitation, “receiving a selection of a key on a keyboard” and “replacing the trading information

related to a benchmark issue in a trading quadrant” are also new matters not found in the specification. *Id.* at p. 3.

There is no *prima facie* case of lack of written description, as the Examiner has not even argued that the relevant portions of the specification fail to support the claims in question.

## 1. Legal Standard

If examination at the initial stage does not produce a *prima facie* case of unpatentability, then without more the Applicants are entitled to grant of the patent. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

A description as filed is presumed to be adequate, unless or until sufficient evidence or reasoning to the contrary has been presented by the examiner to rebut the presumption. *See, e.g., In re Bundy*, 642 F.2d 430, 433 (C.C.P.A. 1981). The Examiner, therefore, must have a reasonable basis to challenge the adequacy of the written description. The obligation to establish a *prima facie case* is affirmed by the Manual of Patent Examining Procedure (MPEP) in its discussions of each requirement of the first paragraph of 35 U.S.C. § 112. *See, e.g., MPEP* § 2163 (III)(A) (written description).

The Examiner has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims. *In re Wertheim*, 541 F.2d 257, 263 (C.C.P.A. 1976). In rejecting a claim, the Examiner must set forth express findings of fact regarding the above analysis which support the lack of written description conclusion.

Whether an application complies with the written description requirement of 35 U.S.C. § 112, ¶ 1 is a question of fact that is reviewed for substantial evidence. *Singh v. Brake*, 317

F.3d 1334, 1343 (Fed. Cir. 2003); Bilstad v. Wakalopoulos, 386 F.3d. 1116, 1121 (Fed. Cir. 2004).

The written description inquiry focuses on whether the disclosure, as filed, “reasonably conveys to a person skilled in the art that the inventor had possession of the claimed subject matter at the time of the earlier filing date.” Eiselstein v. Frank, 52 F.3d 1035, 1039 (Fed. Cir. 1995); Bilstad, 386 F.3d. at 1123 (Fed. Cir. 2004).

**2. First Group: Claim1 – No *Prima Facie* Showing of Failure to Comply with Written Description Requirement**

Claim 1 recites a system that comprises a display device, a keyboard and a processor. Claim 1 recites the processor being configured to, *inter alia*, “direct the display device to *replace the trading information related to the first benchmark issue in the first quad* with trading information related to the first non-benchmark issue with a selection of the key associated with the first non-benchmark issue and to *replace the trading information related to the second benchmark issue in the second quad* with trading information related to the second non-benchmark issue with a selection of the key associated with the second non-benchmark issue” (emphasis added).

The Examiner rejects claim 1 on the grounds that,

... the recitation, “replace the trading information to the first benchmark issue in the first quad” and “replace the trading information related to the second benchmark issue in the second quad” are new matters not found in the specification.

Final Office Action, p. 3. The Examiner is wrong. Support may be found as follows:

[0072] FIG. 6 is a flow chart of an illustrative method involved in allowing a trader to switch between multiple issues of the present invention. This is a generalized flow chart. It will be understood that the steps shown in FIG. 6. may be performed in any suitable order, some may be deleted, and others added.

...

[0074] At step 610, the trading application may display a trading quadrant (“quad”) that has a benchmark issue and multiple non-benchmark issues. The benchmark issue is currently selected. Along with providing the benchmark issue and non-benchmark issues (e.g., issues 1.1, 1.2, and 1.3), the trading application may also provide the trader with the ability to obtain trading information (e.g., another quad) for each of the related U.S. T-swaps, off-the-runs, yield curve T-swaps, and basis.

[0075] At step 620, the trading application may provide the trader with the ability to select one of the multiple non-benchmark issues by pressing the associated issue key on the keyboard, such as keyboard 300, that is mapped to the selected non-benchmark issue. For example, the trader may direct the trading application focus and display trading information on non-benchmark issue 2.1 in response to the trader pressing the issue 2.1 key on the keyboard. The issue 2.1 key is mapped to non-benchmark issue 2.1.

Specification. P. 23, line 4- p. 24, line 7 (emphasis added). At least this portion of the Specification provides a clear foundation for the terms that Examiner alleges are not supported by the application. The Examiner has presented no evidence or reasoning (much less a preponderance of the evidence) to rebut the presumption that the Applicants’ description as filed is inadequate. The Examiner has merely made the bare assertion that the claims are not supported. Accordingly, claim **1** satisfies the requirements of 35 U.S.C. § 112, ¶ 1, and the Final Office Action has not suggested otherwise.

### **3. Second Group: Claim12 – No *Prima Facie* Showing of Failure to Comply with Written Description Requirement**

#### **SEPARATE ARGUMENT OF PATENTABILITY**

The Examiner rejects claim **12** on the grounds that,

the recitation, at lines 6 and 10, “receiving a selection of a key on a keyboard” and “replacing the trading information related to a benchmark issue in a trading quadrant” are also new matters not found in the specification.

Final Office Action, p. 3. Since claim **12** comprises substantially the same limitation as claim **1**, the same argument discussed above under Section B.3. with reference to claim **1** applies.

Accordingly, claim **12** satisfies the requirements of 35 U.S.C. § 112 ¶ 1, and the Final Office Action has not suggested otherwise.

**C. REJECTION UNDER 35 U.S.C. § 103(A)**

Claims **1-30** were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fraser in view of Silverman. Final Office Action, p. 4. There is no *prima facie* case of obviousness for any of the claims, as the Examiner fails to show that Fraser and Silverman disclose or suggest all of the limitations of claim **1** (and claims **2-11**, which depend therefrom).

Furthermore, the Examiner fails to provide any evidence for the motivation to combine Fraser and Silverman. All factual findings of the Patent and Trademark Office must be supported by substantial evidence. Since motivation to combine is a factual finding, it must be supported by some evidence. Because the Examiner does not provide any evidence to support the motivation to combine Fraser and Silverman, he has not established a *prima facie* case of obviousness with respect of claims **1-30**.

**1. Legal Standard – *Prima Facie* Showing**

As described above under Section B.1, the initial burden of presenting a *prima facie* case of obviousness is upon the Examiner. In re Oetiker, 977 F.2d at 1445. To reject claims under 35

U.S.C. § 103, an Examiner must show an un rebutted *prima facie* case of obviousness. *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981 (CCPA 1974). If the Examiner fails to establish a *prima facie* case of obviousness, the rejection is improper and will be overturned. *In re Rijckaert*, 9 F.3d 1531, 1532 (Fed. Cir. 1993); *Novamedix Distrib. Ltd. v. Dickinson*, 175 F.Supp.2d 8, 9 (D.D.C. 2001).

In addition, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference. The Examiner must support with substantial evidence of record a factual finding of a suggestion or motivation to modify a reference. *Novamedix Distrib.*, 175 F. Supp. 2d at 9; *In re Zurko*, 258 F.3d 1379, 1383-1386 (Fed. Cir. 2001); *In re Lee*, 277 F.3d 1338, 1342 (Fed. Cir. 2002). Although the teachings, suggestions, or motivations need not always be written references, the obviousness test must proceed on the basis of some substantial evidence of record. *See Ortho-McNeil Pharmaceutical v. Mylan Labs*, 520 F.3d 1358, 1365 (Fed. Cir. 2008).

Although an obviousness analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, the rejection of a patent on obviousness grounds cannot be sustained by mere conclusory statements. *KSR Int'l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727, 1741 (2007). There must be some articulated reasoning with some rational underpinning to support a legal conclusion of obviousness. *Id.* A patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l Co.*, 127 S.Ct. at 1741. It is important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed invention does, since claimed discoveries almost of necessity will be combinations

of what, in some sense, is already known. *Id.* A fact finder must be aware of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning. KSR Int'l Co., 127 S.Ct. at 1742.

## 2. Third Group: Claims 1-11 – No *Prima Facie* Showing of Obviousness

- a. Fraser and Silverman do not disclose all of the limitations of claims 1 to 11.

### SEPARATE ARGUMENT OF PATENTABILITY

Neither Fraser or Silverman , alone or in combination, disclose or suggest the limitations in claim 1 of:

*... replace the trading information related to the first benchmark issue in the first quad with trading information related to the first non-benchmark issue with the a selection of the key associated with the first non-benchmark issue...*

and

*... replace the trading information related to the second benchmark issue in the second quad with trading information related to the second non-benchmark issue with a selection of the key associated with the second non-benchmark issue...*

(emphasis added). In rejecting claim 1, the Examiner alleges, *inter alia*, that Fraser discloses the following:

... direct the display device to replace the trading information related to the first benchmark issue in the first quad with trading information related to the first non-benchmark issue with the a selection of the key associated with the first non-benchmark issue and to replace the trading information related to the second benchmark issue in the second quad with trading information related to the second non-benchmark issue with a selection of the key associated with the second non-benchmark issue (Fig. 3A-C; programmed issue tabs for implied benchmark/non-benchmark issue).

Final Office Action, p. 5 (emphasis added).

The Examiner is mistaken. Figures 3A-C of Fraser depict “the salient features of [a] dedicated keypad.” Fraser, col. 5, lines 39-40. Because the keypad is “a separate aspect of the present invention,” it is described in only two sections of the specification.

In the first section, Fraser merely mentions Fig. 3 in the following short paragraph:

Accordingly, efficient input systems are important to effectuate the multiple options and the use of a highly specialized keypad that permits these levels of efficiency in the present context. Accordingly, a separate aspect of the present invention is the unique keypad depicted in FIG. 3.

Fraser, col. 8, lines 32-36. The paragraphs that immediately follow this paragraph move on to describe Fig. 4, which is a block diagram of various system states and pathways—a different aspect of the invention.

In a second section, Fraser describes, in detail, the “CANCEL, DONE and UNDO” keys of the keyboard. Specifically, Fraser states the following:

The often frenetic environment of trading, and the entry of commands on the preferred dedicated keypad shown in FIG. 3, and the human factor of customers changing their minds all contribute to the possibility that a trade has been made in error. More particularly, errors can arise due to incorrect entries into the system, a miscommunication between a broker and trader, and the like. These errors can often force a “principal” broker into an unintended position during a trade. This invention preferably provides ways for the broker to effectively “undo” a trade, either by cancelling a pending order, or rolling-back executions during a trade state. As shown in FIG. 3, the keypad provides CANCEL, DONE, and UNDO keys to facilitate this process. The function of these keys when the system is in a particular state is described below, it being understood that the names given to these keys are arbitrary and any input means can be used to affect the desired action(s).

Fraser, col. 16, line 63-col 17, line13.

Nowhere in the specification of Fraser is there a description of *replacing trading information* of any kind, much less *replacing trading information related to the benchmark issue with trading information related to the non-benchmark issue with the a selection of a key associated with the non-benchmark issue*, as recited in claim **1**.

The figures alone also fail to teach or describe the “replace the trading information” feature of claim **1**. Figure 3A depicts a keypad that comprises six keys that are each labeled with the words: “ISSUE”. Fraser, Fig. 3A. A description pointing to these six keys states the following: “Total of 12 issues can be preset for these 6 keys.” Id.

Figure 3B also depicts a keypad that comprises six keys labeled with the words: “ISSUE.” Fraser, Fig. 3B. No description accompanies any of these six keys. Id. Figure 3C depicts a keypad with a single key labeled “ISSUE”, and the accompanying descriptor states, “This row is preprogrammed for twelve different issues. To activate issues 7-12 press < MOD> first.” Fraser, Figure 3C.

None of these three figures provide sufficient evidence to support a disclosure of claim **1**. The mere presence of keys on a keypad that are labeled “ISSUE” does not automatically support replacing trading information of a benchmark issue with trading information of a non-benchmark issue with the selection of a key associated with the non-benchmark issue.

Because the Examiner fails to show all the limitations of independent claim **1** are taught or suggested by Fraser and Silverman, he does not establish a *prima facie* case of obviousness

with respect to these claims. The rejection of claim **1** (and claims **2-11**, which depend therefrom) is thereby improper.

*b. No support for the motivation to combine Fraser and Silverman.*

### SEPARATE ARGUMENT OF PATENTABILITY

The alleged motivation proffered by the Examiner for combining Fraser and Silverman has absolutely no basis in the references themselves or in any other evidence of record. All factual findings of the Patent and Trademark Office must be supported by substantial evidence. Since motivation to combine is a factual finding, it must be supported by some evidence. The Examiner fails to provide any evidence to support the proffered motivation to combine Fraser and Silverman.

The Examiner concedes that Fraser fails to disclose “the display device to display simultaneously a first trading quadrant and a second trading quadrant,” as recited in claim **1**. Final Office Action, p. 5. After asserting that Silverman discloses these features, the Examiner argues – in a single, conclusory sentence – that one of ordinary skill in the art would be motivated to modify Fraser to incorporate these features for the following reason:

Therefore, it would have been obvious to an ordinary [sic] skill in the art at the time of invention was made to modify the features and disclosures mentioned by Fraser to include the disclosure as taught by Silverman *to facilitate in forming a number of ticker pages by displaying selection elements concurrently.*

Final Office Action, p 5 (emphasis added).

The Examiner’s proffered motivation lacks substantial evidence within the record. The Examiner fails to cite any references or any other evidence for why one of ordinary skill in the

art would wish to selectively modify Fraser to incorporate the specific features of Silverman in order to achieve the claimed invention.

In addition, there is no evidence why one of ordinary skill in the art would have the desire alleged by the Examiner to form a number of ticker pages. The Examiner's single, conclusory assertion concerning a motivation to modify Fraser provides no evidence or support whatsoever. Thus, the Examiner fails to establish a *prima facie* case of obviousness for claim **1** (and claims **2-11**, which depend therefrom).

Since there has been no evidence offered, and no reasoning based on evidence, for a motivation to combine and modify the references in the manner the Examiner has proposed, Applicants cannot address the obviousness rejection, and moreover Applicants need not address the obviousness rejection since a *prima facie* showing of obviousness has not been made.

### **3. Fourth Group: Claims 12-18 – No *Prima Facie* Showing of Obviousness**

#### ***a. No support for the motivation to combine Fraser and Silverman.***

#### **SEPARATE ARGUMENT OF PATENTABILITY**

The alleged motivation proffered by the Examiner for combining Fraser and Silverman has absolutely no basis in the references themselves or in any other evidence of record. All factual findings of the Patent and Trademark Office must be supported by substantial evidence. Since motivation to combine is a factual finding, it must be supported by some evidence. The Examiner fails to provide any evidence to support the proffered motivation to combine Fraser and Silverman.

The Examiner concedes that Fraser fails to disclose “the display device to display simultaneously a first trading quadrant and a second trading quadrant,” as recited in claim **12**.

Final Office Action, p. 7. After asserting that Silverman discloses these features, the Examiner argues – in a single, conclusory sentence – that one of ordinary skill in the art would be motivated to modify Fraser to incorporate these features for the following reason:

Therefore, it would have been obvious to an ordinary [sic] skill in the art at the time of invention was made to modify the features and disclosures mentioned by Fraser to include the disclosure as taught by Silverman *to facilitate in forming a number of ticker pages by displaying selection elements concurrently.*

Final Office Action, p 7 (emphasis added).

The Examiner's proffered motivation is the same as that used to rejected claims **1** to **11**, as such, we reiterate our arguments from Section C.2.b.

Since there has been no evidence offered, and no reasoning based on evidence, for a motivation to combine and modify the references in the manner the Examiner has proposed, Applicants cannot address the obviousness rejection, and moreover Applicants need not address the obviousness rejection since a prima facie showing of obviousness has not been made.

#### **4. Fifth Group: Claim 19 – No *Prima Facie* Showing of Obviousness**

##### ***a. No support for the motivation to combine Fraser and Silverman.***

#### **SEPARATE ARGUMENT OF PATENTABILITY**

The alleged motivation proffered by the Examiner for combining Fraser and Silverman has absolutely no basis in the references themselves or in any other evidence of record. All factual findings of the Patent and Trademark Office must be supported by substantial evidence. Since motivation to combine is a factual finding, it must be supported by some evidence. The Examiner fails to provide any evidence to support the proffered motivation to combine Fraser and Silverman.

The Examiner concedes that Fraser fails to disclose “the display device to display simultaneously a second trading quadrant for the selected non-benchmark issue,” as recited in claim **19**. Final Office Action, p. 8. After asserting that Silverman discloses these features, the Examiner argues – in a single, conclusory sentence – that one of ordinary skill in the art would be motivated to modify Fraser to incorporate these features for the following reason:

Therefore, it would have been obvious to an ordinary [sic] skill in the art at the time of invention was made to modify the features and disclosures mentioned by Fraser to include the disclosure as taught by Silverman *to facilitate in forming a number of ticker pages by displaying selection elements concurrently*.

Final Office Action, p 8 (emphasis added).

The Examiner’s proffered motivation is the same as that used to rejected claims **1** to **11**, as such, we reiterate our arguments from Section C.2.b.

Since there has been no evidence offered, and no reasoning based on evidence, for a motivation to combine and modify the references in the manner the Examiner has proposed, Applicants cannot address the obviousness rejection, and moreover Applicants need not address the obviousness rejection since a prima facie showing of obviousness has not been made.

## **5. Sixth Group: Claim 20 – No *Prima Facie* Showing of Obviousness**

*a. No support for the motivation to combine Fraser and Silverman.*

### **SEPARATE ARGUMENT OF PATENTABILITY**

The alleged motivation proffered by the Examiner for combining Fraser and Silverman has absolutely no basis in the references themselves or in any other evidence of record. All factual findings of the Patent and Trademark Office must be supported by substantial evidence. Since motivation to combine is a factual finding, it must be supported by some evidence. The

Examiner fails to provide any evidence to support the proffered motivation to combine Fraser and Silverman.

The Examiner concedes that Fraser fails to disclose “the workstation program operative to display the ticker that comprises the received real-time direct dealing content,” as recited in claim **20**. Final Office Action, p. 10. After asserting that Silverman discloses these features, the Examiner argues – in a single, conclusory sentence – that one of ordinary skill in the art would be motivated to modify Fraser to incorporate these features for the following reason:

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the features and disclosures mentioned by Fraser to include the disclosure as taught by Silverman *in order to facilitate the trading transactions*.

Final Office Action, p 10 (emphasis added).

The Examiner’s proffered motivation lacks substantial evidence within the record. The Examiner fails to cite any references or any other evidence for why one of ordinary skill in the art would wish to selectively modify Fraser to incorporate the specific features of Silverman in order to achieve the claimed invention.

In addition, there is no evidence why one of ordinary skill in the art would have the desire alleged by the Examiner to facilitate the trading transactions. The Examiner’s single, conclusory assertion concerning a motivation to modify Fraser provides no evidence or support whatsoever. Thus, the Examiner fails to establish a *prima facie* case of obviousness for claim **20**.

Since there has been no evidence offered, and no reasoning based on evidence, for a motivation to combine and modify the references in the manner the Examiner has proposed,

Applicants cannot address the obviousness rejection, and moreover Applicants need not address the obviousness rejection since a prima facie showing of obviousness has not been made.

**6. Seventh Group: Claims 21, 22, 26 and 27 – No *Prima Facie* Showing of Obviousness**

***a. No support for the motivation to combine Fraser and Silverman.***

**SEPARATE ARGUMENT OF PATENTABILITY**

The alleged motivation proffered by the Examiner for combining Fraser and Silverman has absolutely no basis in the references themselves or in any other evidence of record. All factual findings of the Patent and Trademark Office must be supported by substantial evidence. Since motivation to combine is a factual finding, it must be supported by some evidence. The Examiner fails to provide any evidence to support the proffered motivation to combine Fraser and Silverman.

The Examiner concedes that Fraser fails to disclose various recitations of claims **21, 22, 26 and 27**. Final Office Action, pp. 10-12. After asserting that Silverman discloses these features, the Examiner argues – in a single, conclusory sentence – that one of ordinary skill in the art would be motivated to modify Fraser to incorporate these features for the following reason:

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the features and disclosures mentioned by Fraser to include the disclosure as taught by Silverman *to facilitate the process of aggregation in the buy/sell system with direct content of ticker pages*.

Final Office Action, p 11 (emphasis added).

The Examiner's proffered motivation lacks substantial evidence within the record. The Examiner fails to cite any references or any other evidence for why one of ordinary skill in the

art would wish to selectively modify Fraser to incorporate the specific features of Silverman in order to achieve the claimed invention.

In addition, there is no evidence why one of ordinary skill in the art would have the desire alleged by the Examiner to process the aggregation in the buy/sell system with direct content of ticker pages. The Examiner's single, conclusory assertion concerning a motivation to modify Fraser provides no evidence or support whatsoever. Thus, the Examiner fails to establish a *prima facie* case of obviousness for claims **21, 22, 26** and **27**.

Since there has been no evidence offered, and no reasoning based on evidence, for a motivation to combine and modify the references in the manner the Examiner has proposed, Applicants cannot address the obviousness rejection, and moreover Applicants need not address the obviousness rejection since a *prima facie* showing of obviousness has not been made.

**7. Eighth Group: Claims 23, 24, 28 and 29 – No *Prima Facie* Showing of Obviousness**

*a. No support for the motivation to combine Fraser and Silverman.*

**SEPARATE ARGUMENT OF PATENTABILITY**

The alleged motivation proffered by the Examiner for combining Fraser and Silverman has absolutely no basis in the references themselves or in any other evidence of record. All factual findings of the Patent and Trademark Office must be supported by substantial evidence. Since motivation to combine is a factual finding, it must be supported by some evidence. The Examiner fails to provide any evidence to support the proffered motivation to combine Fraser and Silverman.

The Examiner concedes that Fraser fails to disclose various recitations of claims **23, 24, 28 and 29**. Final Office Action, pp. 11-12. After asserting that Silverman discloses these features, the Examiner argues – in a single, conclusory sentence – that one of ordinary skill in the art would be motivated to modify Fraser to incorporate these features for the following reason:

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the features and disclosures mentioned by Fraser to include the disclosure as taught by Silverman *to facilitate the process of displaying characteristics of ticker pages*.

Final Office Action, p 11 (emphasis added).

The Examiner's proffered motivation lacks substantial evidence within the record. The Examiner fails to cite any references or any other evidence for why one of ordinary skill in the art would wish to selectively modify Fraser to incorporate the specific features of Silverman in order to achieve the claimed invention.

In addition, there is no evidence why one of ordinary skill in the art would have the desire alleged by the Examiner to facilitate the process of displaying characteristics of ticker pages. The Examiner's single, conclusory assertion concerning a motivation to modify Fraser provides no evidence or support whatsoever. Thus, the Examiner fails to establish a *prima facie* case of obviousness for claims **23, 24, 28 and 29**.

Since there has been no evidence offered, and no reasoning based on evidence, for a motivation to combine and modify the references in the manner the Examiner has proposed, Applicants cannot address the obviousness rejection, and moreover Applicants need not address the obviousness rejection since a *prima facie* showing of obviousness has not been made.

**8. Ninth Group: Claim 25 – No *Prima Facie* Showing of Obviousness**

*a. No support for the motivation to combine Fraser and Silverman.*

**SEPARATE ARGUMENT OF PATENTABILITY**

The alleged motivation proffered by the Examiner for combining Fraser and Silverman has absolutely no basis in the references themselves or in any other evidence of record. All factual findings of the Patent and Trademark Office must be supported by substantial evidence. Since motivation to combine is a factual finding, it must be supported by some evidence. The Examiner fails to provide any evidence to support the proffered motivation to combine Fraser and Silverman.

The Examiner concedes that Fraser fails to disclose “the workstation program operative to display the ticker that comprises the received real-time direct dealing content,” as recited in claim 25. Final Office Action, p. 12. After asserting that Silverman discloses these features, the Examiner argues – in a single, conclusory sentence – that one of ordinary skill in the art would be motivated to modify Fraser to incorporate these features for the following reason:

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the features and disclosures mentioned by Fraser to include the disclosure as taught by Silverman *in order to facilitate direct selection of ticker pages to avoid menu navigation.*

Final Office Action, p 12 (emphasis added).

The Examiner’s proffered motivation lacks substantial evidence within the record. The Examiner fails to cite any references or any other evidence for why one of ordinary skill in the art would wish to selectively modify Fraser to incorporate the specific features of Silverman in order to achieve the claimed invention.

In addition, there is no evidence why one of ordinary skill in the art would have the desire alleged by the Examiner to select ticker pages to avoid menu navigation. The Examiner's single, conclusory assertion concerning a motivation to modify Fraser provides no evidence or support whatsoever. Thus, the Examiner fails to establish a *prima facie* case of obviousness for claim 25.

Since there has been no evidence offered, and no reasoning based on evidence, for a motivation to combine and modify the references in the manner the Examiner has proposed, Applicants cannot address the obviousness rejection, and moreover Applicants need not address the obviousness rejection since a *prima facie* showing of obviousness has not been made.

**9. Tenth Group: Claim 30 – No *Prima Facie* Showing of Obviousness**

*a. No support for the motivation to combine Fraser and Silverman.*

**SEPARATE ARGUMENT OF PATENTABILITY**

The alleged motivation proffered by the Examiner for combining Fraser and Silverman has absolutely no basis in the references themselves or in any other evidence of record. All factual findings of the Patent and Trademark Office must be supported by substantial evidence. Since motivation to combine is a factual finding, it must be supported by some evidence. The Examiner fails to provide any evidence to support the proffered motivation to combine Fraser and Silverman.

The Examiner concedes that Fraser fails to disclose “the workstation program operative to display the ticker that comprises the received real-time direct dealing content,” as recited in claim 30. Final Office Action, p. 12-13. After asserting that Silverman discloses these features,

the Examiner argues – in a single, conclusory sentence – that one of ordinary skill in the art would be motivated to modify Fraser to incorporate these features for the following reason:

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the features and disclosures mentioned by Fraser to include the disclosure as taught by Silverman *to facilitate the aggregation of all buy/sell system with direct content of ticker pages for selected order objects.*

Final Office Action, p 10 (emphasis added).

The Examiner's proffered motivation lacks substantial evidence within the record. The Examiner fails to cite any references or any other evidence for why one of ordinary skill in the art would wish to selectively modify Fraser to incorporate the specific features of Silverman in order to achieve the claimed invention.

In addition, there is no evidence why one of ordinary skill in the art would have the desire alleged by the Examiner to aggregate all buy/sell systems with direct content of ticker pages for selected order objects. The Examiner's single, conclusory assertion concerning a motivation to modify Fraser provides no evidence or support whatsoever. Thus, the Examiner fails to establish a *prima facie* case of obviousness for claim **30**.

Since there has been no evidence offered, and no reasoning based on evidence, for a motivation to combine and modify the references in the manner the Examiner has proposed, Applicants cannot address the obviousness rejection, and moreover Applicants need not address the obviousness rejection since a *prima facie* showing of obviousness has not been made.

**D. CONCLUSION**

In view of the foregoing, Appellants submit that all of the pending claims are in proper condition for allowance, and the Board is respectfully requested to overturn the Examiner's rejection of these claims.

Respectfully submitted,

/Ruth J. Ma/

March 20, 2009

Date

---

Ruth J. Ma  
Reg. No. 55,414  
Attorney for Appellants

**IX. CLAIMS APPENDIX**

1. (Previously Presented) A system for allowing traders to switch between multiple issues in trading quadrants, the system comprising:

a display device;

a keyboard that has keys comprising a key associated with a first benchmark issue and a key associated with a first non-benchmark issue related to the first benchmark issue, and a key associated with a second benchmark issue and a key associated with a second non-benchmark issue related to the second benchmark issue; and

a processor configured to:

direct the display device to display simultaneously a first trading quadrant comprising trading information related to the first benchmark issue and a second trading quadrant comprising trading information related to the second benchmark issue;

allow a trader with an opportunity to select the first non-benchmark issue that is related to the first benchmark issue by pressing the key on the keyboard that is mapped to the first non-benchmark issue and to select the second non-benchmark issue that is related to the second benchmark issue by pressing the key on the keyboard that is mapped to the second non-benchmark issue; and

direct the display device to replace the trading information related to the first benchmark issue in the first quad with trading information related to the first non-benchmark issue with a selection of the key associated with the first non-benchmark issue and to replace the trading information related to the second benchmark issue in the second quad with trading information related to the second non-benchmark issue with a

selection of the key associated with the second non-benchmark issue.

2. (Previously Presented) The system of claim 1 wherein the keyboard comprises a key for price improvement that when selected improves on an existing market price for a selected issue and places the order with the improved price in front of other orders in a trading stack.

3. (Original) The system of claim 1 wherein the keyboard has a key for direct dealing.

4. (Previously Presented) The system of claim 1 wherein the processor is further configured to direct the display device to display a trading quadrant that includes information related to the selected non-benchmark issue.

5. (Previously Presented) The system of claim 4 wherein the trading quadrant is a Treasury swaps trading quadrant.

6. (Original) The system of claim 5 wherein the Treasury swaps trading quadrant includes at least three of the most recent benchmark issues.

7. (Previously Presented) The system of claim 4 wherein the trading quadrant is an off-the-run trading quadrant.

8. (Original) The system of claim 7 wherein the Treasury swaps trading quadrant includes at least three of the most recent benchmark issues.

9. (Previously Presented) The system of claim 4 wherein the trading quadrant is a yield curve trading quadrant.

10. (Previously Presented) The system of claim 4 wherein the trading quadrant is a basis trading quadrant.

11. (Previously Presented) The system of claim 4 wherein the trading quadrant is a limit orders trading quadrant.

12. (Previously Presented) A method for allowing a trader to switch between multiple issues in a trading quadrant, the method comprising:

displaying simultaneously a first trading quadrant comprising trading information related to a first benchmark issue and a second trading quadrant comprising trading information related to a second benchmark issue;

receiving a selection of a key on a keyboard associated with at least one non-benchmark issue that is related at least one of the first and second benchmark issues that is mapped to the at least one non-benchmark issue; and

replacing the trading information related to a benchmark issue in a trading quadrant with trading information related to the selected non-benchmark issue.

13. (Previously Presented) The method of claim 12 comprising displaying in a trading quadrant information related to the selected non-benchmark issue.

14. (Previously Presented) The method of claim 13 wherein the trading quadrant is a Treasury swaps trading quadrant.

15. (Previously Presented) The method of claim 13 wherein the trading quadrant is an off-the-run trading quadrant.

16. (Previously Presented) The method of claim 13 wherein the trading quadrant is a yield curve trading quadrant.

17. (Currently Amended) The method of claim 13 wherein the trading quadrant includes basis trading information.

18. (Previously Presented) The method of claim 13 wherein the trading quadrant includes a limits trading information.

19. (Previously Presented) A method for allowing a trader to switch between multiple issues in a trading quadrant, the method comprising:

displaying a first trading quadrant comprising trading information related to a benchmark issue;

receiving a selection of a key on a keyboard associated with at least one non-benchmark issue that is related to the benchmark issue by pressing that is mapped to the at least one non-benchmark issue; and

displaying simultaneously a second trading quadrant for the selected non-benchmark issue, wherein the second trading quadrant comprises trading information related to the selected non-benchmark issue.

20. (Previously Presented) A system for providing direct dealing information, the system comprising:

- a server storage device;

- a server processor connected to the server storage device, the server storage device storing a server program for controlling the server processor, the server processor operative with the server program to:

- receive real-time direct dealing content related to an item and trading information related to the item for use in a trading quadrant, wherein the direct dealing content comprises at least one of a request a quote, a response with a price, a cancel to a response, an amend a response, or an accept a response, and wherein the trading information comprises limit order data for the item; and

- simultaneously display the trading quadrant comprising the trading information related to the item and a ticker that contains the received real-time direct dealing content related to the item; and

- a plurality of workstations, each of the plurality of workstations operative to communicate with the server, each of the workstations comprising:

- a workstation storage device; and

- a workstation processor connected to the workstation storage device, the workstation storage device storing a workstation program for controlling the workstation

processor, the workstation program operative to display the trading quadrant comprising the limit order data for the item and the ticker that comprises the received real-time direct dealing content.

21. (Previously Presented) The system of claim 20 wherein the server program is further programmed to receive a midprice order to buy or sell an item at a price within a spread market and update the direct dealing content in the ticker to include the midprice order to buy or sell the item.

22. (Original) The system of claim 20 wherein the server program is further programmed to update the direct dealing content in the ticker.

23. (Original) The system of claim 20 wherein the ticker includes at least one request, wherein the request includes an orientation and a size.

24. (Original) The system of claim 20 wherein the ticker includes at least one response, wherein the request includes an orientation and a size.

25. (Original) A method for providing direct dealing information in a trading quadrant that has trading information, the method comprising:

receiving real-time direct dealing content for use in the trading quadrant; and  
simultaneously displaying the trading quadrant and a ticker that contains the received real-time direct dealing content.

26. (Original) The method of claim 25 further comprising receiving a midprice order to buy or sell an item at a price within a spread market and updating the direct dealing content in the ticker.

27. (Original) The method of claim 26 further comprising updating the direct dealing content in the ticker.

28. (Original) The method of claim 26 wherein the ticker includes at least one request, wherein the request includes an orientation and a size.

29. (Original) The method of claim 26 wherein the ticker includes at least one response, wherein the request includes an orientation and a size.

30. (Original) A method for providing real-time direct dealing information in a trading quadrant that has trading information, the method comprising:

receiving a midprice order to buy or sell an item at a price within a spread market;  
updating direct dealing content in a direct dealing ticker in response to receiving the midprice order; and  
simultaneously displaying the trading quadrant and the updated direct dealing ticker.

**X. EVIDENCE APPENDIX**

None

**XI. RELATED PROCEEDINGS APPENDIX**

None